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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/026,385

Applicant(s)

MONTERO, GABRIEL GARCIA

Examiner

JASON RECEK

Art Unit

2442

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This is in response to the amendment filed on October 29th 2010.

Status of Claims

Claims 10-21 are pending.

Response to Arguments

1. Applicant's arguments filed 10/29/10 have been fully considered but they are not persuasive. Applicant argues (pg. 2-5) claim 18 is patentable because it recites "computer readable storage medium". This is not persuasive. The word "storage" is not being ignored. The terms readable medium and storage medium both include transitory media when not limited by the specification. If applicant is opposed to the term "non-transitory" the claim may be amended to recite a computer readable storage device. This will indicate the claim only covers non-transitory (i.e. statutory) type device / media.

Applicant requests clarification as to what rationale examiner is applying under KSR (pg. 7). The rejection explicitly stated "this is merely the combination of known elements according to their established function in order to yield a predictable result." This is the rationale being applied.

Applicant argues that Knight does not disclose "retrieving the messages, from within the separates ones of the plurality of subtopics, respectively using the separate retrieval threads of execution for each specific subtopic" (pg. 10-11). This is not persuasive. Knight clearly teaches separate threads as a limited number of search robots made available to each subscriber (col. 10 ln. 19-27). It is respectfully submitted that applicant is misinterpreting this portion as teaching only a single thread per user. The BPAI decision (pg. 4-5 - Findings of Fact) affirms this by explicitly stating "Knight discloses that this process is dynamic, iterative, and continuous, so that a number of community/custom search robots may be simultaneously ...". Thus it is clear Knight teaches a plurality of robots / threads.

With respect to applicant's comment on the underlined portion, applicant should be aware that claims are interpreted using the broadest reasonable interpretation. A term recited as A/B, does not require A and B. If applicant meant for the claim to require "each specific subtopic and subscriber pair" as if they were two separate and distinct items the claim should be written as such instead of using vague language. Since Knight clearly teaches retrieving messages using separate threads for each subtopic (i.e. search robot extracts data for specific subject, see col. 9 ln. 25-54), it discloses the limitation in question.

Applicant's discussion (pg. 12-15) of the portion of the claim taught by Yeager has been fully considered but is not persuasive. Applicant and the Board may disagree as to what is taught or suggested by Knight but the focus of this portion of the claim is

on Yeager. Applicant seems to agree Yeager teaches initializing threads, but suggests Yeager does not disclose creating a thread "upon determining that the messages exist" (pg. 14). This is not persuasive. Yeager teaches initializing a thread for an accepted connection (col. 7 ln. 66-67). The accepted connection is equivalent to the "upon determination" step. Yeager initializes upon determination of the connection which contains data / message (col. 8 ln. 5-10). Furthermore, as stated in the rejection, Knight also suggests invoking a robot (i.e. thread) upon a query (i.e. message). Thus the combination clearly teaches or suggests "upon determining that the messages exist ... creating a separate retrieval thread" as recited by the claim.

Finally, applicant argues the obvious analysis is deficient (pg. 15-17). This is not persuasive. The rejection clearly explained what was taught or not taught by the art and a finding that one of ordinary skill in the art would have combined the elements based on predictable results. Processing requests / data using threads is well known in the art (both Knight and Yeager disclose this). Thus this is merely a combination of known elements according to their established function in order to yield predictable results. This reasoning is not overbroad as suggested by applicant (pg. 17) but is in line with reasoning (A) from the guidelines based on the KSR decision.

Applicant reasserts the above with respect to claims 11, 15 and 19. This is not persuasive since the above arguments were not found persuasive.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 18-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Regarding claim 18, it is drawn to a computer readable storage medium. Such a medium covers forms of non-transitory tangible media and transitory signals under the broadest reasonable interpretation. In this case no limiting definition is provided by the specification to exclude signal media. Therefore the claim is covers a signal and must be rejected as covering non-statutory subject matter. The claim may be made patent eligible by amending the claim to recite a "non-transitory computer readable storage medium". Claims 19-21 are rejected based on their dependency.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 10, 12-14, 16-18 and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight US 6,493,703 in view of Yeager et al. US 6,735,770 B1.

Regarding claim 1, Knight discloses "receiving, from a message publisher, a request to create a topic; subdividing the topic into a plurality of subtopics; storing, within separate ones of the plurality of subtopics, messages posted to the topic;

receiving, from a message subscriber, a request to retrieve messages from the topic" a message board that organizes content for access by subscribers (abstract), posting logic for appropriate subclass (col. 12 ln. 2-6, 16-23), information in subject areas is broken down into sub-classification (col. 10 ln. 12-14) and process is performed by search robots (i.e. threads, col. 10 ln. 15-19), as discussed in the previous office actions and the decision of the BPAI dated 3/30/10.

Knight also discloses "retrieving the messages, from within the separates ones of the plurality of subtopics, respectively using the separate retrieval threads of execution for each specific subtopic" as a series of software robots (separate threads) for retrieving content (abstract, col. 5 ln. 45-49, col. 9 ln. 25-54, col. 10 ln. 19-27, Fig. 4).

Knight not explicitly disclose "upon determining that the messages exist, for the request topic, within the separate ones of the plurality of subtopics, creating a separate retrieval thread of execution for each specific subtopic" however it does suggest this (especially considering the Board's finding on pg. 9 concerning claim 5) by teaching that a customized robot is invoked upon query (col. 6 ln. 6-10). Nevertheless this is explicitly disclosed by Yeager as initializing a thread for message retrieval (col. 7 ln. 65 – col. 8 ln. 17). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Knight with the thread initialization taught by Yeager for the purpose of processing requests. It is well known in the art to use multiple threads to handle requests (as evidenced by both Knight and Yeager). Therefore, this is merely the combination of known elements according to their established function in order to yield a predictable result.

Regarding claim 12, Knight discloses "said message server resides in at least one process address space" (col. 10 ln. 62 – col. 11 ln. 1, Fig. 3A).

Regarding claim 13, Knight discloses "said at least one process address space is a Java virtual machine" (col. 10 ln. 62 – col. 11 ln. 1, Fig. 3A).

Claims 14 and 16-17 are system claims that correspond to the method of claims 10 and 12-13 respectively, therefore they are rejected for similar reasons.

Claims 18 and 20-21 are medium claims that correspond to the method of claims 10 and 12-13 respectively, therefore they are rejected for similar reasons.

5. Claims 11, 15 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight and Yeager in view of Razdan et al. US 2002/0141584 A1.

Regarding claim 11, the combination of Knight and Yeager does not explicitly disclose "said message server is Java message service (JMS) compliant". However, Razdan discloses: "The application may deliver the reports created by the accounting module as HTTP GET message. The server-to-server communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service (JMS)," (paragraph [0081] on page 7). It would have been obvious for one of ordinary skill in the

art at the time of the applicant's invention to have said message server as Java message service (JMS) compliant. "Similarly, Publisher's webserver will communicate with Clearinghouse web server to collect tracking information. Clearinghouse web server will send a HTTP POST message 410 to Publisher to relay the transaction information, and other tracking information it has collected during the course of the day or a given time period that is agreed to by the Publisher and Clearinghouse. Publisher may send HTTP POST message 462 on its own initiative to request transactional, tracking and auditing information from the Clearinghouse. This communication can be in the form of HTTP/SMTP mail message file transfer or via Java Message Service," (paragraph [0082] on page 7 in Razdan). It is for this reason that one of ordinary skill in the art at the time of the applicant's invention would have been motivated to have said message server as Java message service (JMS) compliant in the combination taught by Knight and Yeager.

Claims 15 and 19 correspond to claim 11 and therefore are rejected for similar reasons.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Yokobori et al. US 7,024,455 B2 discloses storing messages and classifying into themes (abstract).

Cragun US 6,557,027 B1 discloses receiving messages and dividing into sub-topics (abstract).

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON RECEK whose telephone number is (571)270-1975. The examiner can normally be reached on Mon - Fri 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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